

## **DETAILED ACTION**

### ***Status of the Application***

1. Receipt is acknowledged of a response, which was dated on April 16, 2008.

### ***Status of the Claims***

2. Claims 28-46 and 48-63 were pending. Applicants amended claims 28, 34, 35, 43, 57, 58, 59, 60, 61, and 62. In addition, Applicants added claims 64-66 and added canceled claim 56. Therefore, claims 28-46, 48-55, and 57-66 are currently pending and examined on the merits. Please note that all previous species elections have been withdrawn in view of the fact that that the art search was extended to all species and no prior art was found that anticipates or renders obvious the instant claims in accordance with MPEP § 803.02. It is also noted that claims 28-39, 41, 42, 44-46, 48, 49, 55-57 63, 65 and 66 are allowable (see below). Further, claims 40, 43, 50-54, 58-62, previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), the restriction requirement between inventions I and II (and also the species election as noted above), as set forth in the Office action mailed on 6/16/04, is hereby withdrawn and claims 40, 43, 50-54, 58-62 and 64 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions

of 35 U.S.C. 121 are no longer applicable. *See In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

***Withdrawn Rejections***

3. All rejections are withdrawn in view of Applicants' cancellation of the claims and express abandonment of the 10/692,354 application that was provisionally rejected under the judicially created doctrine of obviousness-type double patenting.

***Reasons for Allowance***

4. The prior art of record does not teach or fairly suggest Applicants' claimed process for solution phase peptide synthesis. The closest prior art of record, Carpino et al., fails to teach the use of scavengers comprising both amine and free or latent anion groups wherein the free or latent anion is selected from the group consisting of carboxylate, sulfonate, sulfate, phosphonate, phosphate, and phenolate. Carpino et al. only taught the use of ethanolamine. Ethanolamine does not contain a free or latent anion selected from the group consisting of carboxylate, sulfonate, sulfate, phosphonate, phosphate, phenolate. Furthermore, the "anionic" form of ethanolamine (i.e., the deprotonated alcohol) exists only in minuscule quantities, which demonstrates Carpino's lack of interest in this group (or its modification to another group lie the currently claimed anions). Applicants' amendments also overcame the 35 U.S.C. § 112, second paragraph rejections previously discussed for the reasons set forth in the 4/16/08 response. In addition, the double patenting rejection was overcome by the express abandonment of the '354 application noted above. Therefore, claims 28-46, 48-55, and 57-63 (renumbered 1-37 are allowed).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Salutation*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon D Epperson whose telephone number is (571) 272-0808. The examiner can normally be reached Monday-Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James (Doug) Schultz can be reached on (571) 272-0763. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Jon D. Epperson/  
Primary Examiner, AU 1639